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September 7, 1983

Julia Dragojevic  
Contos and Bunch  
5855 Topanga Canyon Boulevard  
Suite 400  
Woodland Hills, California 91367

Re: Church of Scientology v. Armstrong, No. C 420 153

Dear Ms. Dragojevic:

This letter is offered jointly on behalf of Mary Sue Hubbard and the Church of Scientology of California and is addressed to the injunction aspects of the above-entitled case. As you are aware, this case centers on the right to possession of five cartons of documents currently held under seal by the Superior Court. Pursuant to the terms of the preliminary injunction issued by Judge Cole October 4, 1982, these materials, previously held by Mr. Armstrong and/or his attorneys, were ordered "retained in the possession of the clerk of this court during pendency of this action or until further order of the court."

On April 22, 1983, a hearing was held on the motion by the Church of Scientology and Mrs. Hubbard to modify the preliminary injunction requesting, primarily, the return of these materials to the Church. This motion was denied, Judge Savitch concluding that he saw no new information which would justify changing Judge Cole's prior ruling. There is now, as you are aware, precisely such new information.

Since the April 22 hearing, further discovery, particularly the deposition of Omar Garrison taken July 12, 1983, has established that there is absolutely no factual or legal basis for any claim that Gerald Armstrong has any current right to possession of the materials under seal. This letter is to formally request, therefore, that Mr. Armstrong withdraw his claim and permit the sealed documents to be returned to the Church of Scientology.

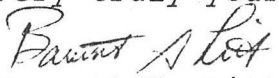
Specifically, you will recall that Mr. Armstrong testified, during his January 14 deposition, that most of the documents in question belonged to Mr. Hubbard and that others belonged to Mrs. Hubbard and to the Church (D. Tr. pp. 116-117). He further claimed that the documents belonged to him "until the biography project is completed." (D. Tr. p. 113). As you know, Mr. Armstrong has repeatedly denied that he actually owns any of these materials. (See August 17 deposition transcript of Mr. Armstrong.) Mr. Armstrong's possession argument is based solely on his claimed responsibility to complete the biography project, which, as I shall now discuss, has been completed and no longer exists.

Omar Garrison had, alone, been retained as the the L. Ron Hubbard biographer. Mr. Armstrong, while a Church of Scientology staff member, was appointed by the Church to assist Mr. Garrison as a researcher. This was pursuant to a contract between AOSH D.K. Publications and Mr. Garrison. Mr. Garrison has testified, however, that as of May, 1982, he ceased working on the Hubbard biography under that contract (D. Tr., pp. 52-53). He continued to work on the Hubbard biography, but not the one contemplated by the contract (pursuant to which Mr. Armstrong was assigned) and not to be published by the publisher that had signed that agreement (Id.). Therefore, at least since May, 1982, the L. Ron Hubbard biography project contract terminated and any claim that Mr. Armstrong had an obligation to Mr. Garrison under this contract has no legitimacy. Mr. Garrison also testified that the materials provided him were understood to be private and confidential and were provided to him only for his use on the biography project. Thus, Mr. Garrison's own testimony discredits any claim by Mr. Armstrong of his entitlement to the documents from the very inception of these proceedings.

Moreover, Mr. Garrison testified that he has now ceased work on any Hubbard biography altogether. Attached to his deposition is a public statement of a settlement agreement between Mr. Garrison and New Era Publications (successor to D.K. Publications) concerning the contract to produce a biography of L. Ron Hubbard. Mr. Garrison testified that he will not publish a biography of L. Ron Hubbard, he is not working on a biography of L. Ron Hubbard, and that he has returned to the Church of Scientology all materials made available to him for purposes of producing the biography. He further testified that he makes no current claim to either own or possess these materials, or to have a right of possession of or access to them. Thus, it is clear that any claim of Mr. Armstrong that is dependent upon the existence of the biography project is now meaningless.

Under these circumstances, I cannot conceive of a basis for Mr. Armstrong to continue to refuse to return these materials to the Church. As you are aware, Mrs. Hubbard and the Church have reached an understanding on maintaining the privacy of these documents, and she and the Church agree that the Church will continue to hold the materials in accord with that understanding. Accordingly, I suggest that you review with Mr. Armstrong your position in this regard and determine whether, in light of these recent developments, Mr. Armstrong will voluntarily abandon his claim to current possession of these documents. Please be advised that we intend to seek sanctions under CCP §128.5 if further recourse to the courts is necessary to resolve this aspect of the case.

Very truly yours,

  
Barrett S. Litt

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